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Counsel to Receiver Sherwood  
Partners, Inc.

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

JOHN B. BIVONA; SADDLE RIVER  
ADVISERS, LLC; SRA MANAGEMENT  
ASSOCIATES, LLC; FRANK GREGORY  
MAZZOLA

Defendants.

Case No. 3:16-cv-1386

**RECEIVER'S  
APPLICATION PURSUANT  
TO L.R. 7-11 FOR THE  
APPROVAL OF FEES AND  
EXPENSES OF LOCAL  
COUNSEL RETAINED BY  
THE RECEIVER FOR THE  
PERIOD NOVEMBER 2017  
TO OCTOBER 2018**

Date: December 13, 2018  
Time: 1:30 PM  
Courtroom: 5  
Judge: Edward M. Chen

**MOTION FOR PAYMENT OF LOCAL COUNSELS' FEES**

**I. Background**

On October 11, 2016, this Honorable Court issued an Order of Appointment of Receiver ("the Order") and thereby appointed Sherwood Partners, Inc. ("Sherwood") as Receiver in this matter. The Order, at Sec. II F, permitted Sherwood to retain professionals, including attorneys, to assist it in performing its duties. Docket No. 142.

On October 26, 2016 the Court issued a further order, Docket No. 147, permitting Sherwood to retain local counsel in the states of New York, New Jersey and Delaware pursuant to 18 U.S.C. §754, in order to protect the assets of the Receivership in any local disputes over ownership and/or possession of Receivership Estate assets, and if necessary, to defend the Receiver in any local actions filed in those jurisdictions, or bring suit in aid of the Receiver's pursuit of its duties under the Order. On November 3, 2016 the Court issued a further order, Docket No. 153, permitting Sherwood to retain bankruptcy counsel to represent it in the Chapter 7 proceeding filed by Defendant Bivona in the U.S. Bankruptcy Court for the Southern District of New York.

By this Application, Sherwood, through its Senior Vice President Georgiana Nertea ("Nertea"), requests that this Court approve the fees and expenses of its local (New York state) and federal bankruptcy counsel for the period of November 2017 to October 2018. This Application consists of the Declaration of Georgiana Nertea, and the time and expense records of the firm of Archer&Greiner PC ("the Archer Firm", Exhibit A to the Declaration of Nertea). <sup>1</sup>

## **II. The Fee Application of Sherwood's (Local) Bankruptcy Counsel**

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<sup>1</sup> In Docket No. 153, the court approved the retention of attorneys at the firm of DiConza, Traurig and Kadish in October 2016. Subsequently, in February of this year, the DiConza firm was merged with the firm of Archer & Greiner, PC. Therefore the bills being presented here are on the letterhead of the Archer & Greiner firm, but reflect work performed by the DiConza firm from October 2017 to February 2018, and the Archer firm for months subsequent to February 2018 up to and including October 2018.

1 As the Declaration of Nertea sets forth, the period for which  
2 Sherwood makes this Application is November 2017 to October 2018.  
3 The Receiver elected to present these bills after the passage of twelve  
4 months to avoid multiple and piecemeal applications to the Court, which  
5 would each cost the billed time of the Receiver's counsel to file separate  
6 motions for each quarter. As is apparent from the monthly bills, and  
7 their total, the amounts for each of the twelve months were quite small,  
8 and it was difficult to estimate what future months would incur.  
9 Therefore the Receiver waited until the total of the work for overseeing  
10 the bankruptcy matter of John Bivona and for legal work as local  
11 counsel for the Receiver approached \$10,000 in total.

12 Ms. Nertea has reviewed the Archer firm's twelve months  
13 invoices, and has found them in all respects to be reasonable and  
14 necessary. Nertea Decl. at § 3. Ms. Nertea has also reviewed all the time  
15 spent by the Archer firm's personnel on enumerated receivership tasks  
16 and has attested to the accuracy and appropriateness of the time billed  
17 in relation to the tasks assigned by the Receiver. Nertea Decl., at ¶ 3. In  
18 sum, Sherwood believes all the attached bills to be consistent with the  
19 SEC's "Billing Guidelines for Receivers" and to have been done within  
20 the assigned scope of work given to them by the Receiver. Nertea Decl.,  
21 at ¶ 3.

### 22 **III. The SEC and Other Counsel Have Reviewed the Archer** 23 **Firm's Fees**

24 The Receiver submitted the accompanying Archer firm's billing  
25 invoices to the SEC, and the counsel for the other participating parties  
26 for their review. The SEC and counsel for the other parties have  
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1 indicated to the Receiver that they do not oppose the fee request of  
2 Archer & Greiner PC as presented to the Court on shortened notice.

3 **IV. Conclusion**

4 For the forgoing reasons, the Receiver requests that the Court  
5 approve the first-year billings of the Archer firm set forth above.

6  
7 Dated: November 28, 2018

GARTENBERG GELFAND HAYTON  
LLP

8  
9 By: /s/ John W. Cotton

10 John W. Cotton  
11 Counsel to the Receiver  
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